

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARCELLUS JONES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 19-397
	)	
ROBERT GILLMORE; ZAKEN;	)	
DIALESANDRO; SOKOL; TRACEY SHAWLEY;	)	
LEGGETT; CARO; WILLIAM NICHOLSON;	)	
STEPHANIE WOOD; DENISE SMITH;	)	
JAMES BRESHAHN; LORI RIDINGS; AUSTIN;	)	
KELLIE GETTY; TATE; JOHNSON; RAMIREZ;	)	
ADAMSON; HECHECAVARA in their	)	
individual capacities,	)	
	)	
Defendants.	)	

**ORDER**

Before the Court is the January 31, 2022 Report and Recommendation of the Honorable Maureen P. Kelly (ECF No. 146) recommending that the Court grant in part and deny in part the Motion for Summary Judgment filed on behalf of the DOC contracted health care providers (the “Medical Defendants”) (ECF No. 118), grant in part and deny in part the Motion for Summary Judgment filed on behalf of the administrators and employees of the Pennsylvania Department of Corrections (the “DOC Defendants”) (ECF No. 113), and deny Plaintiff’s Motion in Opposition (ECF No. 131). Objections to Judge Kelly’s Report and Recommendation were due by February 14, 2022; objections to the Report and Recommendation for unregistered ECF users were due by February 17, 2022. No objections were filed,<sup>1</sup> and the matter is now ripe for disposition.

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<sup>1</sup> We note that pro se Plaintiff Marcellus Jones voluntarily dismissed his claims on February 4, 2022 as to

The district court must make a *de novo* determination of those portions of the report to which objections are made. 28 U.S.C. § 636(b)(1)(C); *see also Henderson v. Carlson*, 812 F.2d 874, 877 (3d Cir.1987). This Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district court judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

Upon review of the January 31, 2022 Report and Recommendation of the Honorable Maureen P. Kelly (ECF No.146), as well as a review of the entire record in this matter, it is hereby ORDERED that the Court hereby adopts Judge Kelly's Report and Recommendation as the Court's Opinion. The Motion for Summary Judgment filed on behalf of administrators and employees of the Pennsylvania Department of Corrections (ECF No. 113) is GRANTED IN PART and DENIED IN PART. The motion for summary judgment filed on behalf of DOC contracted health care providers (ECF No. 118) is GRANTED IN PART and DENIED IN PART. Specifically, it is ORDERED that:

1. The Motion for Summary Judgment filed on behalf of the Medical Defendants as to Jones's First Cause of Action, including his First and Eighth Amendment claims, arising out of alleged retaliation and the denial of medical care on July 9, 2017 is hereby GRANTED.

2. The Motion for Summary Judgment filed on behalf of the Medical Defendants as to Jones's Third Cause of Action, including his First and Eighth Amendment claims arising out of alleged retaliation and the denial of medical care during the period October 21, 2017 through December 28, 2017, is hereby GRANTED as to Medical Defendant Ridings only; the Motion for Summary Judgment as to Dr. Smyth and Physician Assistant Bresnahan is hereby DENIED.

3. The Motion for Summary Judgment filed on behalf of the Medical Defendants as to

Jones's due process and equal protection claims arising under the Fourteenth Amendment is hereby GRANTED.

4. The Motion for Summary Judgment filed on behalf of the DOC Defendants as to Jones's Fourth Cause of Action alleging the violation of his Eighth Amendment rights by Defendants Adamson, Hechavarria, and Ramirez is DENIED.

5. The Motion for Summary Judgment filed on behalf of the DOC Defendants as to all claims arising out of Jones's First and Third causes of action, including the violation of his First Amendment rights, the violation of his Eighth Amendment rights for deliberate indifference to his serious medical needs, and the violation of his Eighth Amendment rights for the alleged failure to intervene to provide medical treatment is GRANTED.

6. Jones's "Motion in Opposition to Defendants' Requests for Summary Judgment" is hereby DENIED.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

DATED: February 28, 2022

s/Robert J. Colville  
Hon. Robert J. Colville  
United States District Judge

cc: Honorable Maureen P. Kelly  
All Counsel of Record by electronic filing

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